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COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Working Group on Indigenous Populations
Seventeenth session
26-30 July 1999

PRINCIPAL THEME: INDIGENOUS PEOPLES AND THEIR RELATIONSHIP TO LAND

Information received from indigenous organizations

1. In its resolution 1999/51, the Commission on Human Rights urged the Working Group on Indigenous Populations to continue its comprehensive review of developments and of the diverse situations and aspirations of the world's indigenous people, and welcomed the proposal to highlight specific themes of the International Decade of the World's Indigenous People. In the same resolution the Commission also noted that the Working Group would focus on the theme "Indigenous peoples and their relationship to land".

2. The present document contains information received from indigenous organizations relating to the principal theme.

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INDIAN MOVEMENT "TUPAJ AMARU"

[4 June 1999]
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Historical Background

1. The premises and causes of the usurpation of ancestral land, its pitiless despoilment and its unjust and aberrant redistribution clearly date back to the "discovery" of America and result from the wealth-and power-hungry colonization of our Amerindian continent more than five centuries ago.

2. The war of conquest served only to provoke through its violence the breakdown of the aboriginal civilizations which until that time had lived and worked in harmony with natural and social law. At the time, our ancestors knew how to cultivate the earth with respect, take care of each plant and each tree that offered generously of its fruits to future generations, and hunt animals strictly for their vital needs.

3. Through the blindness of their conduct, however, "civilized" human beings destroyed this equilibrium essential to the survival of the human race. The balance once destroyed, the aboriginal world opened up to the world of the market economy, and this in turn led to all the present contradictions between man and nature, the works of man and the earth's riches. These materially motivated conflicts, directing world history, generally ended in wars between the colonial powers to gain a share of the territory of the vanquished aboriginals and to appropriate their wealth.

4. It is more than five centuries since the Spanish colonizers thrust their swords and crosses in the Amerindians' faces; the swords to seize the lands and territories of the vanquished and the crosses to send Indian souls to the Kingdom of Christ. On the eve of the third millennium, the same warmongering attitude is tearing the world apart and the same modern-day military powers are launching missiles in all directions to gain a share of the market.

5. It was by this historical accident that the ancestral land (Pacha Mama), a symbol at once of a mythology and of an inexhaustible source of life, formerly regarded as a sacred gift and cultivated with both respect and veneration, should have become a mere item of merchandise delivered up to the voraciousness and speculation of the market. The collective ownership of land was replaced by private ownership.

6. Deprived of their Mother Earth, the material support for their existence and the reason for their struggle, the Indians, turned into nothing more than conscious objects, were made into slaves belonging to feudal masters and subjected to a servitude unparalleled in history. The Indian's capacity for creative work, the barometer of his dignity, was also to become an item of merchandise.

7. More than ever, five centuries after the so-called "discovery" of America, Amerindians are directing their glances and their thoughts towards this Mother Earth which was and remains the constant source of life and the beginning and the end of the Indian identity, the principle of balance and harmony in all development, and above all the motivating force of indigenous, black and popular resistance.

8. Here, at the end of the twentieth century, we must remember and remind others that this fragile Earth over which we have been walking throughout history is essential for the survival of the human race. The Earth exists only thanks to life, and life thanks to the Earth. This profound relationship between aboriginal man and nature shows the degree to which the Earth and its human expression in the Indian constitute a single identity in time and space.

9. Unlike the dominant colonial society based on private property as its single reason for being and with profit as the supreme objective, aboriginal civilizations, particularly the Tahuantinsuyu, were founded on collective property and common work as the single ethic for generation of wealth to be distributed according to the principle "to each according to his labour and from each according to his ability".

The New Colonization of the Earth

10. Centuries on from the predatory industrialization process, there will never be another new world. The earth is a finite planet and, despite the ontological question surrounding the human race's existence, the latter continues to colonize the earth. Multinational companies, taking advantage of ultra-liberal economic policies, have grievously wounded our Mother Earth, neglected its strategic resources and destroyed the ecosystem to such a degree that an ecological disaster is threatening us all.

11. In 1885, the Indian High Chief Seattle, of the Dwamiche tribe, chided the President of the United States: "The earth does not belong to man; it is man who belongs to the earth (...). The white man treats his mother the Earth and the sky as items to be bought, plundered and sold, like sheep or shiny beads. His appetite will devour the earth and behind him there will remain only a desert".

12. A hundred and four years after this prophetic vision, diametrically opposed to the Western view of development, the mistaken colonizers continue to believe they have every right to possess the Earth, while the Indians believe themselves to belong to Mother Earth and to be merely a superior product of nature.

13. Over the course of time, our ancestors chided colonial society over the need to protect the planet and its biological diversity at once as a means of survival, as a free living space, and as the reason for being and the source of all life. For this Mother Earth is a piece of eternity and of the resistance and liberation of the indigenous peoples.

14. However, during the colonization process and up to the present, the colonizers, be they white or half-caste, have proved capable of destroying

the Indian world and killing all life on Earth. According to their ethnocentric standpoint, nature exists only for man. The Indian viewpoint, on the other hand, recognizes that man coexists on Earth with other forms of life and attaches special importance to the need to preserve these for the sake of mankind's equilibrium. Thus, everything living deserves to be protected.

15. Throughout the neo-colonization of the world by the highly industrialized countries, with the cynical complicity of the ruling classes in the South, colonial dictatorship was replaced by another equally ideological dictatorship, that of the market, with devastating implications. Today, more than ever, indigenous populations watch in horror as their lands become cursed, victims of their own wealth, which is coveted by multinational companies securely settled in the lands traditionally occupied by the indigenous peoples.

16. The fresh colonization of America is part of the strategy of this new international economic order. The wealth slumbering in the depths of the vast Amazon basin has stirred the imagination and obsessiveness of the transnational corporations which seek nothing more than to maximize their profits.

17. The report of the Brazilian Environmental Institute states that 40 per cent of the Amazon region, more than six million square kilometres, is under exploitation by powerful American and European companies. The major culprits are Gulf Oil, British Petroleum, Brascan and the French company Rhone-Poulenc. These are the modern-day swords for the great conquest of the Amazon.

18. Before the European colonizers arrived, there were two million Yanomani Indians living in their ancestral lands, now in the Brazilian state of Roraina. Now thousands of gold-prospectors and timber merchants have invaded this indigenous territory, causing the death of about 20 per cent of the population. The Commission on Human Rights in 1992 believed the Yanomani Indians to be in the final stage of extermination.

19. Moreover, the current President of Bolivia, General Hugo Banzer, upon taking power after a bloody military coup in 1971, announced a "new order" which would open up the country to the voraciousness of trusts and monopolies from abroad and particularly from North America. The military Government authorized the penetration of the Andean region by transnationals such as Sun Oil Union, Oil Total Bolivia, Petroleum Occidental, Union Oil Marathon, Amerada, Hess Amaco and Phillips Petroleum.

20. From March 1973 to August 1974, fourteen million potentially energy-resource rich hectares were handed over to oil companies for oil prospecting and drilling.

21. According to *O Estado de Sao Paolo* magazine, Generals Geisel and Banzer signed an agreement in April 1974, in which General Banzer undertook to cede to Brazil 12,000 square kilometres of Bolivian territory inhabited by 3,500 Indians.

22. The arrogant intrusion of the transnationals with government complicity aroused national indignation. A tragic page in the history of the indigenous Andean peoples' age-old struggle was written on 30 January 1974. On that day, the dictator Banzer, who passes today for a "democrat", ordered the cruellest of massacres against a demonstration of 15,000 Indians, peasants and workers whose only crime was to have organized a peaceful march for land and freedom. According to the report of the Bolivian "Justicia y Paz" committee, this cold-blooded military attack cost the lives of 200 Indians, with several hundred injured and 400 imprisoned.

23. For two decades, since foreign investors were given the green light, forestry companies, new landowners, timber merchants and gold-prospectors holding all manner of government concessions, have been arriving in the virgin lands of the Bolivian East. They shamelessly exploit the precious timber of the Amazon forest, usurp aboriginal land and mercilessly plunder natural resources which traditionally belong to the T'simane, Trinitario, Mojeno, Yuracare and Guarani Indians.

24. Driven from their lands by modern weapons, 30,000 Indians departed from the Bolivian Amazon on a long march for dignity and land. Leaving the deep valleys, they crossed the mountains and the plateau, battling against the freezing wind, the cold and the altitude until they came to the capital to express to the Government their legitimate claim for a right to the land and its natural resources.

25. Through their heroic march and their determination, Indians, whether they come from Mexico, Bolivia or Guatemala, have demonstrated the importance of carefully organized action - a movement broad enough to make Governments recognize indigenous peoples' right to land and dignity.

26. The indigenous peoples will continue their struggle for recognition of their inherent right to the ownership, collective and individual, of their lands and their resources. The aboriginal nations, by virtue of this customary right, should have permanent sovereignty over the soil and what lies beneath it, coastal waters, water resources, flora and fauna, and mineral and forest resources in order that they may satisfy their material and spiritual needs.

The Days of Unlimited Growth are Numbered

27. The consequences of chaotic, destructive industrialization are grim: private investors, the holders of financial capital, have reimposed the neocolonial model on North-South relations in the name of a new international economic order. The countries of the north, south and east, with the exception of socialist Cuba, have been forced to languish in the hopelessness of a market economy in which human beings are condemned constantly to increase output and consumption.

28. Within this spiral in which development has become a question of life or death, the men of this modern age seek incessantly to go higher, further and faster in order to produce and consume more and more, but their appetites are never satisfied. This not only squanders natural resources, but turns human beings into robots.

29. Experience has shown us that any economic growth policy which results in the lawless plundering of natural resources serves only to widen the gap between rich and poor. We find the logic absurd in itself, for such irrational behaviour will lead inevitably to the destruction of all life on this ancient Earth.

30. Is it possible to maintain indefinitely this vicious cycle of supporting growth, unequal development and accumulation of capital profits at any cost? It seems senseless to press blindly ahead with this boundless economic growth: this is the road to death, to the self-destruction of our civilization through the destruction of the ecosystem.

31. We must all take cognizance of the urgent need to stop anarchic, uncontrolled growth, which destroys our natural heritage, and find an alternative mode of production to the neo-liberal development model based on wastage of renewable and non-renewable natural resources.

32. If the current unequal pattern of development continues, the world will be more exposed to climatic upheaval in the third millennium, to the point that the earth could swallow us all up. The start of the twenty-first century would bring the chaos of globalization and with it the destruction of historic civilizations, the withering of the State and the annihilation of mankind in high-technology wars.

33. The ultraliberal development model is, however, challenged by the collective global conscience, including the organizations of the United Nations. The publication by the Club of Rome of a report entitled *The Limits to Growth* had enormous repercussions. The authors state that "the infinite pursuit of industrial growth in a world with finite resources could lead by the middle of the twenty-first century to a major ecological and human disaster" (*Le Monde*, 11 May 1993).

34. The use and abuse of the Earth's generosity could lead an important species, Man, to disappear from the face of the planet. The indigenous peoples, conscious of this apocalyptic threat, are advocating new developmental parameters: the reining in of the laws of economics, rational use of natural resources, restoration of the ecological balance, replacement of the market ethic by traditional values, and the fulfilment of human beings inside and outside the world of work, instead of the emphasis on output and maximum productivity from the workforce.

35. The issue is basically one of placing man and his dignity at the centre of sustainable and integral development as a means of reconciling four priority directions: sensibly planned economic growth, social justice, a sustainable environmental policy, and an equitable distribution of wealth. These are the essential conditions for the restoration of sustainable and just development and the balance between man and nature which was accidentally destroyed in 1492.

ASSOCIATION OF THE SMALL PEOPLES OF THE NORTH

[4 June 1999]
[Original: RUSSIAN]

Declaration

on the Free Development of the Small Peoples of the North

We, representatives of the indigenous small peoples of the North of the Republic of Sakha (Yakutia), of the Institute for the Problems of the Small Peoples of the North of the Siberian Branch of the Russian Academy of Sciences, and of the Indian Movement "Tupaj Amaru" (Bolivia), a non-governmental organization in consultative status at the United Nations, met in Yakutsk, Republic of Sakha (Yakutia) on 16 June 1998 for a round-table discussion on "The Rights of Indigenous Peoples".

We, the participants of the round-table discussion on "The Rights of Indigenous Peoples", unanimously concluded there was a need urgently to develop and implement a package of political and socio-economic measures to preserve, further develop and ensure genuine equality for the small peoples of the North in all walks of life.

CHAPTER I

The right of the indigenous peoples to the land and its natural resources

According to article 9 of the Constitution of the Russian Federation, "The land and other natural resources shall be utilized and protected in the Russian Federation as the basis of the life and activity of the peoples inhabiting the corresponding territory".

Article 5 of the Constitution of the Republic of Sakha (Yakutia) states that "The earth, what lies beneath and the riches it contains, the waters, forests, the vegetable and animal kingdoms, other natural resources, airspace and the continental shelf in the territory of the Republic of Sakha (Yakutia) are the Republic's and the inalienable property of the people of the Republic".

Noting that the indigenous peoples of Russia, Latin America and the Scandinavian countries are the children of the bountiful Mother Earth and have from time immemorial protected and enriched its fields, forests and lakes and the animal and vegetable kingdoms without disturbing its natural condition, we, the participants of the round-table discussion on "The Rights of Indigenous Peoples" believe that for the continuation of this good tradition and its transfer to the next generation the following should be declared:

1. The indigenous small peoples of the North are fully entitled to collective ethnic ownership and possession of lands and resources, including the environment in its entirety - land, water and air - within the lands which they have since time immemorial inhabited and tended, historically and traditionally occupied or used in other ways; they are

also entitled to control the use of their primordial territories. This includes the right to full recognition of their own laws and customs, their systems for land management and rational use of resources, and the right to effective governmental measures to prevent any interference with infringement of these rights.

2. The indigenous small peoples of the North have the right to restoration of or, should this be impossible to achieve in its entirety, fair redress for lands, resources and territories that have at any time been seized, confiscated, occupied, used or damaged without voluntary and considered common consent by the peoples concerned. Unless a different agreement has been freely reached with the peoples concerned, this redress should consist of lands and territories equal in quality, quantity and legal status to those lost.

3. The indigenous small peoples of the North are entitled to protection of their environment and the viability and fertility of their lands and territories; they have the right to demand that the northern territories be taken out of military use and that any nuclear, chemical or bacteriological tests there cease without delay; and they are entitled to appropriate help, including international cooperation for this purpose. Unless a different agreement has been freely reached with the peoples concerned, their lands and territories shall not be used for military, industrial or other activities or for storage or disposal of dangerous materials.

CHAPTER II

The traditional spheres of economic activity of the indigenous peoples of the North

The shift to a market economy and the poorly planned privatization process destroyed both traditional and modern economic activities of the small peoples of the Russian North, bringing about a sharp fall in agricultural and craft-sector output and in the income of the indigenous population.

The neo-liberal economic policies of the Government of the Russian Federation have deprived an absolute majority of the indigenous small peoples of the North of their main source of income, leaving them well below the poverty line.

The clan and tribal communes, peasant firms, joint-stock companies and small businesses set up during the reforms have through lack of State aid turned into barter economies dragging out a beggarly existence.

In order to protect the interests of the indigenous peoples from the vagaries of the markets, escape from the agricultural crisis in the North, and ensure regular production of foodstuffs and raw materials, the State needs to provide, in the lands traditionally inhabited and worked by indigenous peoples, conditions permitting the development of deer-hunting, fishing and other economic activities by:

- Setting up regular State orders for meat, milk and fish, wild berries, mushrooms and medicinal plants;

- Laying on medical, trade, cultural, consumer and transport services where the nomadic population produces consumables; and

- Refunding from State sources 70-80 per cent of what enterprises of the small peoples of the North spend on producing manufactured items and raw materials.

CHAPTER III

Social and cultural conditions

In addition to the destruction of their agriculture and crafts, the indigenous small peoples of the Russian North are suffering a social and cultural disintegration. Closures of pre-school centres, schools, medical facilities, cultural centres, local cinema facilities and libraries are continuing everywhere. Consumer-service enterprises have disappeared from the indigenous settlements. The State has done away with medical, trade, cultural, consumer and transport services for the nomadic and semi-nomadic population engaged in deer-hunting and crafts.

The rate of housing construction has slowed dramatically, the proportion of housing with modern amenities is extremely low, and 17 per cent of the population lacks housing.

More than 10 of the small ethnic groups of the North have no writing system for their languages. Half of those engaged in studies are not taught their mother tongues, leading to an increase in the numbers of people ignorant of their mother tongues, cultures and traditions.

The small peoples of the North are facing a demographic catastrophe: natural demographic growth has fallen by almost two thirds over the past seven years, and morbidity and mortality have risen. Average life expectancy for indigenous peoples has fallen and many are on the verge of losing their gene pools.

The spiralling process of assimilation and the current demographic situation have brought more than 10 small peoples of the Russian North to the brink of extinction.

In population settlements, the indigenous population is increasingly abandoning traditional activities such as deer-hunting and crafts. Likewise, in the towns, the proportion of the indigenous population working in the production sector is exceptionally low. At the same time, unemployment is on the increase, with half the rural population of working age having no formal employment: in the communes, the figure is approximately 80 per cent.

In order to protect the right of the small peoples of the North to social and cultural development, we consider it necessary to affirm the following:

1. The indigenous small peoples of the North have the right to maintain and develop their distinct ethnic and cultural features and identities.

2. The indigenous small peoples of the North have the right to protection from cultural genocide, including prevention of and redress for:

   (a) Any action which has the aim of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

   (b) Any form of forced or involuntary assimilation or integration;

   (c) Any dispossession of their lands, territories or resources;

   (d) Any imposition of other cultures or ways of life;

   (e) Any form of propaganda directed against them.

3. The indigenous peoples shall not be removed from their primordial territories without their informed consent and are fully entitled to return to their former places of residence.

4. The indigenous small peoples of the North have the right to revitalize and practise their cultural traditions and customs. This includes the right to maintain, protect and develop past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies, technologies and works of art, as well as the right to the restitution of cultural, religious and spiritual property taken without their free and informed consent or in violation of their customs and laws.

5. The indigenous small peoples of the North have the right to practise their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their ancestral burial sites, religious and cultural sites; the right to the use, restoration and control of ceremonial places and objects; and the right to the reburial and repatriation of human remains.

6. The indigenous small peoples of the North Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their languages, oral traditions, writing systems and literatures, and to designate and retain or reinstate their own names for communities, places and persons. They have the right to free exchange of spiritual values. The State shall take effective measures to ensure these rights are protected.

7. The indigenous small peoples of the North have the right to all forms of education, including access to education in their own languages; and to establish and control their educational systems and institutions. The State shall provide appropriate resources for these means.

8. The indigenous small peoples of the North have the right to have the dignity, diversity and development of their cultures, traditions, histories and aspirations appropriately reflected in all forms of education and public information. The State shall take effective measures to ensure this right is protected.

9. The indigenous small peoples of the North have the right to special measures by the United Nations for the protection of their intellectual property rights over traditional manifestations of their cultures, such as literature, drawings, visual and performing arts, crops and plant species of medicinal significance, including traditional knowledge about the use of animal and plant species.

We, representatives of the indigenous small peoples of the North and the Latin American Indians, unanimously endorse the rights to protection and development of the cultural and spiritual heritage contained in the Declaration on Indigenous Peoples.

CHAPTER IV

The political and legal situation of the indigenous small peoples of the North

1. The indigenous small peoples of the North, in conformity with international law, have the right of self-determination. By virtue of that right they shall freely determine their relationship with the State within which their territory is situated, freely pursue their economic, social and cultural development, and freely choose the forms of self-government in accordance with their historical traditions.

2. The transnational corporations, the International Monetary Fund and the World Bank are pursuing a policy of turning the territories of the indigenous peoples of the world into an appendage supplying raw materials to the industrialized countries: this is making peoples economically and politically dependent and is highly detrimental to the development of the indigenous peoples of the Russian North and of Latin America.

3. Experience of world development over the past decades shows that the new economic order established by the United Nations is in conflict with the traditional way of life of all indigenous peoples. The pernicious policy of globalization has brought to the brink of catastrophe nature, the ecosystem, and the peoples who inhabit them.